

**ASSEMBLY BILL**

**No. 2343**

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**Introduced by Committee on Agriculture (Matthews (Chair),  
Maze (Vice Chair), Canciamilla, Cogdill, Parra, Salinas, and  
Vargas)**

February 23, 2006

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An act to amend Sections 62521, 62560, 62561, 62563, 62564, 62574 of the Food and Agricultural Code, relating to milk.

LEGISLATIVE COUNSEL'S DIGEST

AB 2343, as introduced, Committee on Agriculture. Milk producers' security trust fund.

Existing law confers upon the Secretary of Food and Agriculture the ability to establish and administer the Milk Producers Security Trust Fund to protect producers against loss of payment for bulk milk. Existing law provides that security charges may be collected by the secretary until he or she determines that the value of the fund approximates 110 percent of the dollar amount of the total purchases of milk being paid for and received in one month by the handler with the largest payment obligation to producers for that month.

This bill would instead provide that the fund shall be maintained at a value equal to the fund balance as of January 1, 2007, at which time the secretary shall discontinue collecting security charges unless the fund balance falls below \$30,000,000, as specified. This bill would also provide that the secretary may require handler's whose average monthly milk purchases exceed \$30,000,000 to provide acceptable securities, as defined. This bill would provide that when acceptable securities in the required amount, as specified, are provided, the secretary shall not collect security charges from that handler. This bill would provide that shipments to handlers who fail to provide

acceptable securities will be listed as ineligible for coverage under the fund.

Existing law specifies the amount of security charges in mills per pound of product each handler is obligated to pay into the Milk Products Security Trust Fund.

This bill would decrease the mills per pound paid by handlers, as specified.

Existing law provides that any handler subject to any milk pooling plan, as specified, that receives milk that is not subject to the calculation of producer prices, as specified, shall be obligated to pay the security charges for any portion of that milk that is assigned to class 1, class 2, and class 2 usage.

This bill would change these provisions to also include milk that is assigned to class 4a and class 4b usage.

Existing law provides that any handler receiving milk that is not subject to any pooling plan, as specified, shall be obligated to remit security charges for class 1, class 2, and class 3 products, and may deduct the security charges from the minimum prices to be paid to producers.

This bill would change these provisions to also include class 4a and 4b products.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 62521 of the Food and Agricultural  
2     Code is amended to read:  
3     62521. For purposes of this chapter, the following terms  
4     mean:  
5     (a) “Acceptable security” means a surety bond from an  
6     admitted surety insurer, deposits of government securities, a cash  
7     deposit, a letter of credit, escrow account, or other form of  
8     performance guarantee acceptable to the secretary and meeting  
9     the requirements as acceptable security pursuant to law. Letters  
10    of credit used as acceptable security shall contain provisions as  
11    the secretary may prescribe, shall name the secretary as the  
12    beneficiary of the letter of credit, shall be clean and irrevocable,  
13    and shall provide that the secretary may draw upon it up to the  
14    total amount in the event of a handler payment default.

1 (b) “Board” means the Milk Producers Security Trust Fund  
2 Board.

3 ~~(b)~~

4 (c) “Covered milk” means milk that would, in the event of a  
5 default in payment by the purchasing handler, qualify for  
6 coverage under Article 5 (commencing with Section 62580) of  
7 Chapter 2.5 of Part 3.

8 (d) “Fund” means the Milk Producers Security Trust Fund  
9 created pursuant to Section 62506.

10 ~~(e)~~

11 (e) “Fund balance” means the combined value of the security  
12 charges, any increments received pursuant to Section 62573, and  
13 the value of all alternative financial instruments then being used  
14 by the secretary pursuant to subdivision (d) of Section 62560.

15 (f) “Fund surplus” means the amount by which the fund;  
16 including security charges collected and all increments received  
17 pursuant to Section 62573, balance exceeds, at any particular  
18 time, the maximum amount provided for in Section 62560 fund  
19 balance as of January 1, 2007.

20 ~~(d)~~

21 (g) “Handler” means any person who as owner, agent, broker,  
22 or intermediary, either directly or indirectly, receives, purchases,  
23 or otherwise acquires ownership, possession, or control of milk  
24 in unprocessed or bulk form from a producer or a  
25 producer-handler for the purpose of manufacturing, processing,  
26 selling, or other handling. It includes cooperative associations  
27 that, either directly or indirectly, receive, purchase, or otherwise  
28 acquire ownership, possession, or control of milk from other  
29 handlers or producers who are nonmembers of the cooperative.

30 ~~(e)~~

31 (h) “Milk” means bulk whole milk, bulk lowfat milk, bulk  
32 skim milk, bulk condensed skim, and bulk cream, and any other  
33 combination of these products which have not had nondairy  
34 ingredients added. It does not include milk which has been  
35 packaged in bottles, cartons, dispenser cans, or other consumer  
36 packages.

37 ~~(f)~~

38 (i) “Producer” means any person that produces milk from five  
39 or more cows whose bulk milk is received, acquired, or handled  
40 by a handler. It includes the nonprofit cooperative associations

described in Article 3 (commencing with Section 61871) of Chapter 2 in the sale of milk of its member producers to other handlers.

SEC. 2. Section 62560 of the Food and Agricultural Code is amended to read:

62560. (a) The security charges provided for in Section 62561 shall be collected until ~~the secretary determines that the value of the fund approximates 110 percent of the dollar amount of the total purchases of milk of all classes then currently being paid for and received in one month by the handler with the largest payment obligation to producers for that month~~ *January 1, 2007. Unless otherwise permitted by this section, the secretary shall thereafter discontinue collection of the security charges. The fund shall consist of security charges, the value of any alternative financial instrument, and acceptable securities provided by handlers pursuant to subdivision (d).*

(b) ~~When the fund reaches the maximum provided for in this section, the secretary shall discontinue collection of the security charges. If after January 1, 2007, payment of producers claims reduce the fund balance below thirty million dollars (\$30,000,000), the secretary may resume collecting security charges in order that the fund balance is thereafter maintained at thirty million dollars (\$30,000,000). Security charges necessary to return the fund balance to thirty million dollars (\$30,000,000) shall, subject to subdivision (c) be collected from all handlers making purchases of milk, including handlers who have posted acceptable securities as a result of their milk purchases in excess of thirty million dollars (\$30,000,000).~~

(c) ~~If necessary, the secretary may reinstate the security charges for the purpose of replacing periodically any withdrawals from the fund and otherwise adding money to the fund in order that the maximum value of the fund, as provided in this section, is maintained. If in any month, any handler's average monthly milk purchases, computed over the preceding 12 months, exceeds thirty million dollars (\$30,000,000), the secretary shall require the handler to provide acceptable securities in an amount equal to the difference between thirty million dollars (\$30,000,000) and 110 percent of that handler's average monthly milk purchases. When handlers have provided acceptable securities covering the difference, the secretary shall not collect security charges from~~

1 *those handlers for the portion of their average monthly milk*  
 2 *purchases covered by acceptable securities. Securities to*  
 3 *handlers failing to provide acceptable securities, as required by*  
 4 *this subdivision, shall be listed by the secretary as ineligible for*  
 5 *coverage under the fund pursuant to Section 62586.*

6 (d) In consultation with the Milk Producers Security Trust  
 7 Fund Advisory Board, the secretary may consider and use  
 8 alternative financial instruments ~~as an alternative to solely, in~~  
 9 *addition to, or in lieu of*, using security charges to meet the  
 10 financial security requirements of this section.

11 ~~(e) For the purposes of this section, "fund" includes the~~  
 12 ~~combined value of any alternative financial instrument and~~  
 13 ~~security charge collected.~~

14 SEC. 3. Section 62561 of the Food and Agricultural Code is  
 15 amended to read:

16 62561. (a) The following security charges shall be in effect  
 17 for any period for which the ~~director~~ *secretary* has implemented  
 18 collections under this chapter:

19 (1) (A) ~~Five and seven-tenths~~ *One and seven-tenths* mills per  
 20 pound ~~(\$0.0057)~~ *(\$0.0017)* for class 1 fat.

21 (B) ~~Two and three-tenths~~ *Nine-tenths* mills per pound  
 22 ~~(\$0.0023)~~ *(\$0.0009)* for class 1 solid-not-fat.

23 (C) One-tenth mill per pound (\$0.0001) for class 1 fluid.

24 (2) (A) ~~Seven and one-tenth~~ *Three and two-tenths* mills per  
 25 pound ~~(\$0.0071)~~ *(\$0.0032)* for classes 2 ~~and, 3, 4a, and 4b~~ fat.

26 (B) ~~Two and nine-tenths~~ *One and three-tenths* mills per pound  
 27 ~~(\$0.0029)~~ *(\$0.0013)* for classes 2 ~~and, 3, 4a, and 4b~~  
 28 solids-not-fat.

29 (b) The ~~director~~ *secretary* shall add the security charges to the  
 30 prices established for ~~class 1, class 2, and class 3 milk established~~  
 31 ~~pursuant to all classes of milk in accordance with Chapter 2~~  
 32 (commencing with Section 61801). *The secretary is only*  
 33 *authorized by this article to collect security charges on covered*  
 34 *milk.*

35 SEC. 4. Section 62563 of the Food and Agricultural Code is  
 36 amended to read:

37 62563. Any handler subject to any pooling plan in effect  
 38 under Chapter 3 (commencing with Section 62700) shall  
 39 continue to be obligated for the minimum prices provided for in  
 40 the stabilization and marketing plans on the pooled usage of the

1 handler. However, any part of the minimum prices ~~which are that~~  
2 *is* attributable to the security charges established pursuant to  
3 Section 62561 shall be deducted before producer prices are  
4 determined under the pooling plan.

5 Any handler subject to the pooling plan that receives milk  
6 ~~which that~~ is not included in the calculation of producer prices  
7 determined under the pooling plan shall be obligated to pay the  
8 security charges established pursuant to Section 62561 for any  
9 portion of that milk ~~which that~~ is assigned to class 1, class 2, ~~and~~  
10 class 3, *class 4a, and class 4b* usage.

11 The amount of any handler's obligation attributable to the  
12 security charges established pursuant to Section 62561 shall be  
13 remitted by the ~~director~~ *secretary* to the fund by the end of the  
14 month following the month the pool calculations were  
15 completed.

16 SEC. 5. Section 62564 of the Food and Agricultural Code is  
17 amended to read:

18 62564. Any handler receiving milk not subject to any pooling  
19 plan in effect pursuant to Chapter 3 (commencing with Section  
20 62700) shall be obligated to remit to the ~~director~~ *secretary* any  
21 security charges in effect pursuant to Section 62561 for class 1,  
22 class 2, ~~and~~ class 3, *class 4a, and class 4b* products produced  
23 from the milk and may deduct the security charges from the  
24 minimum prices required to be paid to producers.

25 SEC. 6. Section 62574 of the Food and Agricultural Code is  
26 amended to read:

27 62574. Immediately following the semiannual payment to the  
28 fund of the increment provided in Section 62573, if the ~~director~~  
29 *secretary* determines that there is a fund surplus, the ~~director~~  
30 *secretary* shall transfer an amount equal to the fund surplus to an  
31 account administered by the Milk Stabilization Branch of the  
32 department to be used to reduce the producer and handler  
33 assessments that would otherwise be imposed pursuant to Article  
34 14 (commencing with Section 62211) of Chapter 2. One-half of  
35 the fund surplus so transferred shall be used to reduce the  
36 obligation of producers and one-half shall be used to reduce the  
37 obligation of handlers pursuant to that article. If, at any time, the  
38 ~~director~~ *secretary* determines that the fund *balance* has fallen  
39 below the ~~maximum amount provided in Section 62560 level that~~  
40 *existed as of January 1, 2007* or that a transfer pursuant to this

1 section would cause the fund *balance* to fall below the ~~maximum~~  
2 ~~amount provided in Section 62560~~ *level that existed as of*  
3 *January 1, 2007*, the ~~director~~ *secretary* shall cease to make any  
4 transfer pursuant to this section until the time that a fund surplus  
5 exists.

O